

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
BECKLEY**

**UNITED STATES OF AMERICA**

**v.**

**CRIMINAL NO. 5:23-cr-188-4**

**CHAD LESTER**

**UNITED STATES' RESPONSE TO DEFENDANT'S MOTION  
TO CONTINUE TRIAL (ECF NO. 226)**

Comes now the United States of America, by and through the undersigned attorneys, and respectfully submits this response to defendant's motion to continue the trial presently scheduled for December 10, 2024. (ECF No. 226). In light of counsel's representations regarding his ability to be ready for trial, the government does not oppose the request for a short continuance of the trial date. However, the government seeks to clarify the timeline of the discovery it has produced to the defendant. In addition, to government seeks to bring some scheduling issues to the Court's attention for consideration, should the Court order a new trial date.

On December 4, 2024, defendant filed the instant motion to continue the trial in this matter. Defendant was indicted on November 29, 2023. (ECF No. 4) in three counts of an eighteen-count indictment arising out of correctional officers' alleged use of unreasonable force that led to the death of an inmate at the Southern Regional Jail, as well as the cover-up that followed. Since the indictment, the government has provided seven joint and individual discovery productions to the Defendant. The bulk of the discovery was provided in early productions which were sent to the Defendant through counsel in December 2023 and January 2024. Since then, in keeping with its ongoing discovery obligations, the government produced additional discovery on May 10, 2024,

September 3, 2024, November 14, 2024, November 25, 2024, and December 4, 2024.

Throughout the course of meeting its discovery obligations, the government has been made aware of several technology issues counsel for defendant Lester has encountered in accessing the discovery. The government has aided defense counsel on multiple occasions with any technology issues encountered. This assistance has included answering questions regarding accessing the materials, as well as re-producing three different discovery productions. In addition, on December 4, 2024, the government provided defense counsel with printed copies of Rule 6(e) materials – which had originally been provided to counsel on a flash drive sent on September 3, 2024, as part of an early disclosure of Jencks material – at defense counsel’s request.

Since the scheduling of the initial trial date for January 23, 2024, the Court has granted two unopposed Defense motions to continue. (ECF Nos. 118, 119, and 169). Additionally, the Court has granted one United States motion to continue over the defendant’s objection. (ECF Nos. 129, 132).

The government is ready to proceed to trial as scheduled on December 10, 2024. However, in light of counsel’s representations regarding his ability to be ready for trial, the government does not oppose the request for a short continuance of the trial date in order to assure that the defendant receives the effective assistance of counsel. The government, however, requests the Court only grant a continuance for the time that is necessary for defense counsel to adequately prepare for trial. Further, the government notes that preparing for trial requires a significant amount of coordination and resources. In particular, the government has a witness on active military duty who was subpoenaed from Japan to attend the trial. The witness is currently scheduled to leave Japan in order to be present for the currently scheduled December 10 trial date. If the trial is to be

rescheduled, the government must notify the witness of the rescheduling of his travel by the close of business on Thursday, December 5. In addition, the government has also scheduled long-distance, out-of-state travel for a family member of the victim to attend the trial.

WHEREFORE, the United States respectfully submits that it does not oppose the defendant's motion to continue. Should the Court grant the continuance, the United States respectfully requests the Court confer with the parties about a new trial start date that is mutually agreeable between the Court and the parties to avoid the likelihood of unnecessary continuances in the future.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing "UNITED STATES' RESPONSE TO DEFENDANT'S MOTION TO CONTINUE (ECF NO. 226)" has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing this the 4th day of December, 2024, to:

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